

AMENDED IN SENATE JUNE 17, 2014

AMENDED IN SENATE AUGUST 12, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1397

**Introduced by Committee on Veterans Affairs (Muratsuchi (Chair),
Chávez (Vice Chair), Atkins, Brown, Eggman, Grove, Salas, and
Yamada)**

March 6, 2013

~~An act relating to military employment protections. An act to amend
Section 19792 of the Government Code, relating to veterans.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1397, as amended, Committee on Veterans Affairs. ~~California
National Guard and United States Military Reserve: employment
protections. State civil service: veterans preference data.~~

The California Constitution requires civil service appointments to be made under a general system based on merit ascertained by competitive examination. The California Constitution allows the Legislature to provide preference for veterans and their surviving spouses. Under existing law, whenever any veteran achieves a passing score on an entrance examination, the veteran is required to be ranked in the top rank of the resulting eligibility list.

Existing law requires the Department of Human Resources (department) to, among other things, review, examine the validity of, and update qualifications standards, selection devices, including oral appraisal panels, and career advancement programs.

This bill would additionally include the veterans preference system among those selection devices.

Existing law requires the department to maintain a statistical information system designed to yield the data and the analysis necessary for the evaluation of equal employment opportunity within the state civil service. Existing law requires the statistical information to include specific data to determine the underutilization of groups based on race, ethnicity, gender, and disability.

This bill would additionally require that statistical information to include specific data to determine the underutilization of groups based on veteran status, as specified. The bill would also require that data analysis to include specific information pertaining to veteran status.

~~Existing federal law prohibits a person who is a member of, applies to be a member of, or who performs, has performed, applies to perform, or has an obligation to perform service in, a uniformed service, from being subject to adverse employment actions on the basis of that membership, application for membership, performance of service, application for service, or obligation. Existing federal law entitles any person whose absence from a position of employment is necessitated by reason of service in the uniformed services to reemployment rights and other benefits if certain requirements are met.~~

~~Existing law prohibits, among other things, an employer from discharging any person from employment because of the performance of any ordered military duty or training or by reason of being an officer or warrant officer, or enlisted member of the military or naval forces of this state, or prejudicing or harming him or her in any manner in his or her employment, position, or status by reason of performance of military service or duty or attendance at military encampments or places of drill or instruction.~~

~~Existing law entitles a member of the reserve corps of the Armed Forces of the United States or of the National Guard or the Naval Militia to a temporary military leave of absence while engaged in military duty, and prohibits employers from restricting or terminating any collateral benefit for employees because of an employee's temporary incapacitation incident to duty in the National Guard or Naval Militia.~~

~~This bill would declare the intent of the Legislature to enact legislation to enhance, clarify, and strengthen the employment protections afforded to members of the California National Guard or the United States Military Reserve in California.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 19792 of the Government Code is*
2 *amended to read:*

3 19792. The department shall do all of the following:

4 (a) Provide statewide leadership, designed to achieve equal
5 employment opportunity in the state civil service.

6 (b) Develop, implement, and maintain equal employment
7 opportunity guidelines.

8 (c) Provide technical assistance to state agencies in the
9 development and implementation of their equal employment
10 opportunity programs.

11 (d) Review and evaluate departmental equal employment
12 opportunity programs to ensure that they comply with state and
13 federal statutes and regulations.

14 (e) Establish programs to ensure equal employment opportunity
15 for all state job applicants and employees through broad, inclusive
16 recruitment efforts and other measures as allowed by law.

17 (f) Provide statewide training to departmental equal employment
18 opportunity officers who will conduct training on equal
19 employment opportunity.

20 (g) Review, examine the validity of, and update qualifications
21 standards, selection devices, including oral appraisal panels *and*
22 *veterans preference systems*, and career advancement programs.

23 (h) Maintain a statistical information system designed to yield
24 the data and the analysis necessary for the evaluation of equal
25 employment opportunity within the state civil service. The
26 statistical information shall include specific data to determine the
27 underutilization of groups based on race, ethnicity, gender, ~~and~~
28 disability, *and veteran status*. The statistical information shall be
29 made available during normal working hours to all interested
30 persons. Data generated on a regular basis shall include, but not
31 be limited to, all of the following:

32 (1) Current state civil service workforce composition by race,
33 ethnicity, gender, age, *veteran status*, department, salary level,
34 occupation, and attrition rates by occupation.

35 (2) Current local and regional workforce and population data
36 for groups based on race, ethnicity, gender, and age.

37 (i) The data analysis referred to in subdivision (h) above shall
38 include, but not be limited to, all of the following:

1 (1) Data relating to the utilization of groups based on race,
2 ethnicity, and gender compared to their availability in the relevant
3 labor force.

4 (2) Turnover data by department and occupation.

5 (3) Data relating to salary administration, including average
6 salaries for groups based on race, ethnicity, gender, and disability
7 and comparisons of salaries within state service and comparable
8 state employment.

9 (4) Data on employee age, and salary level compared among
10 groups based on race, ethnicity, gender, and disability.

11 (5) Data on the number of individuals of each race, ethnicity,
12 gender, and disability who are recruited for, participate in, and
13 pass state civil service examinations. This data shall be analyzed
14 pursuant to the provisions of Sections 19704 and 19705.

15 (6) Data on the job classifications, geographic locations,
16 separations, salaries, and other conditions of employment that
17 provide additional information about the composition of the state
18 civil service workforce.

19 *(j) The data analysis referred to in subdivision (h) shall also*
20 *include, but not be limited to, all of the following pertaining to*
21 *veteran status:*

22 *(1) Data relating to the utilization of veterans compared to their*
23 *availability in the relevant labor force.*

24 *(2) Turnover data by department and occupation.*

25 *(3) Data relating to salary administration, including average*
26 *salaries for veterans and comparisons of salaries within state*
27 *service and comparable state employment.*

28 *(4) Data on employee age, and salary level compared among*
29 *groups based on veteran status.*

30 *(5) Data on the number of veterans who are recruited for,*
31 *participate in, and pass state civil service examinations. This data*
32 *shall be analyzed pursuant to the provisions of Sections 19704*
33 *and 19705.*

34 *(6) Data on the job classifications, geographic locations,*
35 *separations, salaries, and other conditions of employment that*
36 *provide additional information about veterans in the state civil*
37 *service workforce.*

38 ~~SECTION 1. The Legislature finds and declares all of the~~
39 ~~following:~~

1 ~~(a) (1) The jobs of the nation's citizen soldiers in the California~~
2 ~~National Guard or the United States Military Reserve are supposed~~
3 ~~to be safe while they are serving their country. Neither federal nor~~
4 ~~state law authorizes employers to penalize service members for~~
5 ~~attending to their military duties.~~

6 ~~(2) In spite of existing legal protections, every year, thousands~~
7 ~~of California National Guard or United States Military Reserve~~
8 ~~troops returning from Afghanistan and elsewhere come home only~~
9 ~~to find they have been replaced, demoted, denied benefits, or denied~~
10 ~~seniority.~~

11 ~~(3) These adverse employment actions have contributed to~~
12 ~~historically high rates of joblessness among returning California~~
13 ~~National Guard or United States Military Reserve members.~~

14 ~~(4) Many of those considering military service in the California~~
15 ~~National Guard or the United States Military Reserve will be~~
16 ~~deterred from entering the military absent a guarantee that their~~
17 ~~civilian jobs will be safe on their return from active service.~~

18 ~~(b) In light of the fact that members of the California National~~
19 ~~Guard or the United States Military Reserve in California continue~~
20 ~~to experience both overt and subtle forms of discrimination in~~
21 ~~employment, it is the intent of the Legislature to enact legislation~~
22 ~~to enhance, clarify, and strengthen the employment protections~~
23 ~~afforded to them in California.~~